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5 IN THE UNITED STATES DISTRICT COURT  
6 FOR THE EASTERN DISTRICT OF CALIFORNIA

7 UNITED STATES OF AMERICA, ) CR. No. 05-145 DFL  
8 )  
9 Plaintiff, ) [PROPOSED] ORDER GRANTING  
10 v. ) DEFENDANT LEDESMA'S OBJECTION  
11 ) TO THE PRESENTENCE  
12 ROSALVA BERNAL, and ) INVESTIGATION REPORT  
13 BENITO LEDESMA, )  
14 Defendants. )  
15 \_\_\_\_\_ )

16 On February 16, 2006, defendant Benito Ledesma came before the  
17 Court for judgment and sentencing in this Case. During the  
18 sentencing hearing, counsel for the defendant, Maria Fonseca, Esq.,  
19 objected to the Presentence Investigation Report (PSR) prepared by  
20 the Court's Probation Officer. Specifically, counsel objected to  
21 application of the statutory 60-month mandatory minimum sentence and  
22 the Probation Officer's calculation of an Offense Level of 23,  
23 Criminal History category I, and a sentencing range of 46 to 57  
24 months. (PSR ¶61 at 14-15.) Defense counsel objected based upon  
25 application of the so-called "safety valve" provision set forth in  
26 18 U.S.C. § 3553(f) and U.S.S.G. § 5C1.2.

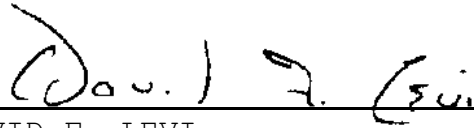
27 Counsel for the government and the Probation Officer  
28 represented to the Court that the defendant is entitled to a  
sentence below the mandatory minimum of 60 months and a 2-level

1 decrease in offense level because he meets the criteria set forth in  
2 18 U.S.C. §§ 3553(f)(1)-(5) and U.S.S.G. § 5C1.2. Based upon the  
3 safety-valve provisions, the Court found an Offense level of 21,  
4 Criminal History Category I, and a Sentencing Range of 37-46 months.  
5 Following the recommendation of the government and the Probation  
6 Officer, the Court imposed a sentence of 37 months imprisonment.

7 Therefore, based upon the representations of counsel and the  
8 Probation Officer, defendant's Objection to the Presentence  
9 Investigation Report is GRANTED consistent with the findings set  
10 forth in this Order and stated on the record at the February 16,  
11 2006, sentencing hearing.

12 IT IS SO ORDERED.

13 Date: 2/17/2006

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17 DAVID F. LEVI  
18 United States District Judge  
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